

**VILLAGE OF PALMETTO BAY, FLORIDA  
MINUTES OF THE MONDAY, AUGUST 1, 2005  
MEETING OF THE VILLAGE COUNCIL**

DEERING ESTATE VISITOR CENTER  
16701 SOUTHWEST 72 AVENUE  
PALMETTO BAY, FLORIDA

- I. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE:** Mayor Flinn called the meeting to order at 7:10 p.m. The following members of the Village Council were present:

Mayor Eugene Flinn  
Vice Mayor Linda Robinson  
Councilman Ed Feller, MD  
Councilman Paul Neidhart  
Councilman John Breder

The following staff members were present:

Village Manager Charles D. Scurr  
Village Attorney Eve A. Boutsis  
Village Clerk Meighan J. Pier

**II. PROCLAMATIONS, AWARDS, PRESENTATIONS**

- A. Introduction of new Finance Director, Desmond Chin: Mr. Scurr introduced Desmond Chin, newly-hired Finance Director, and provided a brief history of Mr. Chin's experience. Mr. Scurr announced that Mr. Chin will begin working full-time with the Village on August 15, 2005.

Mayor Flinn asked Mr. Chin to lead the pledge of allegiance. Together with the Council, Mayor Flinn welcomed Mr. Chin to the Village. Mr. Chin thanked the Council and the Manager and introduced his wife, mother, father, and sister.

- B. Commander Mouring came forward and gave a public safety report. He noted that concerning the start of the school year, Palmetto Bay officers will spend the first several weeks educating parents on the proper and safe pick-up and drop-off of students prior to issuing tickets.
- C. Special Assistant to School Board Member Evelyn Greer, District 9, Bev Gerald provided a School Board update. She advised that selection of new school sites to relieve overcrowding has been ongoing. She announced a meeting scheduled for August 10<sup>th</sup> concerning school site planning and construction committee.

Mr. Scurr asked for information concerning Coral Reef Elementary School.

Ms. Gerald advised that construction is scheduled to commence in January of 2006, with a completion date of August, 2006.

### **III. APPROVAL OF MINUTES**

- A. Minutes of the June 22, 2005 Special Council Meeting
- B. Minutes of the July 11, 2005 Council Meeting

Councilman Neidhart moved to approve the Minutes. Seconded by Vice Mayor Robinson. All voted in favor. The Motion carried.

### **IV. VILLAGE MANAGER'S REPORT**

Mr. Scurr advised that staff may have to schedule a Special Council meeting in order to meet a deadline with the South Florida Water Management District regarding supplemental funding that may be available. He reported that staff is scheduling presentations concerning architects for the C-100 project and construction manager at risk firms, also. He noted that the check register is available. He announced that a Budget Workshop will be held on Tuesday, August 30<sup>th</sup>, at 7 pm and the Budget Hearings are scheduled for Wednesday, September 14<sup>th</sup>, and Monday, September 26<sup>th</sup>. Mr. Scurr advised that the Budget in Brief booklets are available this evening.

### **V. VILLAGE ATTORNEY'S REPORT**

Attorney Boutsis announced the continuation of an attorney-client session in the Pastorella v. The Village of Palmetto Bay and Old Cutler Presbyterian Church scheduled for Friday, August 5, 2005 at 6:30 p.m. Councilman Feller moved to approve. Seconded by Vice Mayor Robinson. All voted in favor. The Motion carried.

### **VI. BOARD AND COMMITTEE REPORTS: None at this time.**

### **VII. CONSENT AGENDA**

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ATTORNEYS' FEES; APPROVING ATTORNEYS' FEES AND COSTS FOR NAGIN GALLOP FIGUEREDO, P.A. IN THE AMOUNT OF \$25,759.81; PROVIDING AN EFFECTIVE DATE.
- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CONTRACTS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN AGREEMENT WITH H & R PAVING, INC. FOR RESURFACING AND STRIPING OF PUBLIC ROADWAYS WITHIN THE VILLAGE OF PALMETTO BAY; AUTHORIZING THE VILLAGE

MANAGER TO ISSUE A PURCHASE ORDER IN AN AMOUNT NOT TO EXCEED \$200,000.00; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Feller moved to approve the Consent Agenda items. Seconded by Councilman Neidhart. All voted in favor. Resolutions 05-58 and 05-59 were adopted unanimously (5-0).

## VIII. RESOLUTIONS

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO PARKS AND RECREATION; AUTHORIZING THE VILLAGE MANAGER TO SUBMIT AN APPLICATION TO THE FLORIDA CITIES OF EXCELLENCE AWARD PROGRAM; NOMINATING THE VILLAGE FOR ITS OUTSTANDING PARKS ACHIEVEMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Scurr provided staff report.

Director Ana Garcia, Community Services, added that staff recognizes and welcomes the commitment that the Village has concerning the parks.

Mayor Flinn suggested that the Village consider naming the former Haas property.

Vice Mayor Robinson moved to approve. Seconded by Councilman Feller. All voted in favor. Resolution 05-60 was adopted unanimously (5-0).

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO VILLAGE POLICE PROCUREMENT; AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER FOR PERSONAL SAFETY/CRIME PREVENTION BROCHURES UNDER COUNTY CONTRACT BW7686-3/08-1 FOR THE TOTAL AMOUNT OF UP TO \$6,800.00 FROM CHANNING BETE CO.; PROVIDING AN EFFECTIVE DATE.

Vice Mayor Robinson moved this item. Seconded by Councilman Breder.

Mr. Scurr provided staff report.

Commander Michael Mouring of the Palmetto Bay Policing Unit advised that the brochures would be personalized with the Village's logo.

Mayor Flinn asked all concerned parents, homeowner groups or other groups to visit the Village's Police Department and receive information or ask for a presentation. He noted that the funds to pay for these brochures are taken from forfeiture funds.

Vice Mayor Robinson called the question. All voted in favor. Resolution 05-61 was adopted unanimously (5-0).

**IX. RESOLUTIONS REQUIRING PUBLIC HEARING:** None at this time.

**X. ORDINANCES FOR FIRST READING AND EMERGENCY ORDINANCES:**  
None at this time.

**XI. ORDINANCES FOR SECOND READING AND PUBLIC HEARING**

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO *AD VALOREM* TAXATION; PROVIDING AN *AD VALOREM* TAX BREAK TO QUALIFIED INDIVIDUALS OVER THE AGE OF 65, WITH AN ANNUAL INCOME UNDER \$20,000 AND HOMESTEAD RESIDENCE WITHIN VILLAGE LIMITS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Sponsored by Mayor Eugene Flinn)

Councilman Feller moved this item. Seconded by Councilman Neidhart.

Mr. Scurr provided staff report. He explained that the State of Florida authorizes double ad valorem homestead exemption for low income seniors. He advised that the Village has approximately 155 eligible recipients and adoption of the Ordinance would result in a loss of approximately \$9,500 per year. Mr. Scurr noted that staff recommends approval.

Mayor Flinn opened the public hearing.

Mr. Eric Tullberg, 7884 SW 179 Terrace, stated that the amount should be adjusted for inflation.

Mayor Flinn closed the public hearing.

A roll call vote was taken as follows: Councilman Feller: Yes; Councilman Neidhart: Yes; Councilman Breder: Yes; Vice Mayor Robinson: Yes; and, Mayor Flinn: Yes. The Motion carried (5-0). Ordinance 05-07 was adopted.

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE ADOPTION OF THE COMPREHENSIVE PLAN OF THE VILLAGE OF PALMETTO BAY; PROVIDING FOR ITS TRANSMITTAL TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS AND TO ALL OTHER UNITS OF LOCAL GOVERNMENT OR OTHER AGENCIES AS REQUIRED BY LAW; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Councilman Feller moved this item forward. Seconded by Councilman Neidhart.

Director Arleen Weintraub, Community Development, provided staff report. She introduced Matt Noonkester of Kimley-Horn and Associates.

Mr. Noonkester advised that the Village had received only nine comments from the Florida Department of Community Affairs; two comments being minor, four concerning transportation and two concerning the future land use element. He provided the future time line for the document.

Attorney Boutsis suggested the following:

- Page 1-7, Policy 1.1.3., strike “including” and insert “may include” and add “None of the above uses shall create a substantial adverse impact on Biscayne National Park or Biscayne Bay.”
- Policy 2.B.2.3 – Transit circulator for elderly, handicapped and shut in population.
- Policy 3.1.7 – end of paragraph – Village shall notify landlords via village quarterly newsletter.
- Policy 3.1.9 – revise first sentence – redact “protect” and include “encourage the protection of all identified...”
- Page 6-4 – after 6.5.4 add 6.5.5. – “Any new project or develop is to demonstrate that it will not demonstrate a substantial adverse to the environment.”
- Exhibit B – Page 1-8 (Table 1-5): insert “Potential” instead of “projected”, paragraph 5.

Mayor Flinn opened the public hearing. The following individuals addressed the Council: Eric Tullberg, 7884 SW 179 Terrace; Gabe Bifano, 7371 SW 156 Street; Jerry Proctor, 200 S. Biscayne Blvd., representing the Palmetto Bay Village Center (discussion ensued concerning the “senior living facility”), and Joseph Miorelli, 8481 SW 142 Street.

Mayor Flinn closed the public hearing.

Mayor Flinn asked Mr. Noonkester where the hurricane evacuation routes are considered.

Mr. Noonkester noted that the SFRCP offers a model regarding evacuation times, and then the Village sets the limit. He advised if the number of units in the Palmetto Bay Village Center increased, the site may not comply with the evacuation plan in the Future Land Use Policy, Page 1-8, Policy 1.1.11.

Mr. Scurr advised that in the Charrette, the developer was completely responsible for the evacuation efforts.

Councilman Feller moved to amend the plan with the six additives read by Attorney Boutsis. Seconded by Vice Mayor Robinson. All voted in favor. The Motion carried (5-0).

Councilman Feller remarked that with regard to the Palmetto Bay Village Center assisted living facility, the idea of “age-in-place” is an excellent concept; however, when the matter was first presented, the concept was only independent living, not hospital beds, etc. He stated that with “age-in-place,” size of the facility will increase. He suggested that the idea of allowing the elderly to remain in the same facility upon their becoming infirm is important, if size can remain the same.

Attorney Boutsis advised that staff calculated the increase to be 1.5 individuals per unit.

Councilman Feller stated that independent units are often occupied by one individual and that 300 units with 1.5 individuals would total 450 individuals.

Mayor Flinn asked if the figure was consistent with the charrette.

Councilman Feller stated that the charrette only intended the facility to be a senior facility.

Director Weintraub noted that detail from the charrette was incorporated into the section of the Comprehensive Development Master Plan.

Councilman Neidhart noted that the maximum number was 300 and should remain as is, as was decided by charrette. He suggested that the ratio could be 200 in individual units and 100 in the ancillary unit.

Councilman Breder stated that the developer should have considered the 450 figure upon his initial presentation to the charrette committee. He noted that the purpose of tonight’s meeting is not to decide site plan approval. He suggested that lot coverage may be a problem with the expansion and there are restrictive covenants on the land.

Discussion ensued concerning the building size.

Director Weintraub noted that the Comprehensive Development Master Plan mirrors the charrette language, modifying the language to suit Attorney Proctor’s clients would not.

Mayor Flinn reiterated that the suggested language is not consistent with what is in charrette.

Discussion ensued.

Councilman Feller moved to adopt the proposed Ordinance as amended by staff. Seconded by Councilman Neidhart. A roll call vote was taken as follows: Councilman Feller: Yes; Councilman Neidhart: Yes; Councilman Breder: Yes; Vice Mayor Robinson: Yes; and, Mayor Flinn: Yes. The Motion carried (5-0). Ordinance 05-08 was adopted.

## **XII. REQUESTS, PETITIONS AND PUBLIC COMMENTS**

The following individuals addressed the Council: Howard Tendrich, 16500 SW 74 Avenue; Beverly Gerald announced a meeting to be held on Wednesday, August 10, Room 559, 1450 NE 2 Avenue; Richard Buchanan, 9271 SW 180 Street; John Jennings, 7601 SW 176 Street; Joseph Miorelli, 8481 SW 142 Street; and, Erick Tullberg, 7884 SW 179 Terrace.

## **XIII. MAYOR AND COUNCIL COMMENTS**

- A. Councilman Feller stated that he was made aware that light pole signs are being installed without approval by staff. He asked staff to consider drafting a resolution that includes fines for non compliance. Councilman Feller advised that he had been informed that under the current windstorm insurance coverage, if your home is under a hurricane watch and your home sustains any type of damage not related to the hurricane, your windstorm deductible will apply regardless of how the damage occurred. He asked staff to draft correspondence to the Florida Legislature to change this rule and asked the village attorney to consider drafting a resolution. Councilman Feller also suggested staff consider what type of promotional activities can be done to encourage the film/print industries to come to Palmetto Bay.
- B. Councilman Breder advised that his son, Zach, is recovering from heart surgery and should be released this week. He thanked all who have expressed their best wishes.
- C. Vice Mayor Robinson thanked Dr. Salzberg for writing to the legislators regarding the relocation of several U.S. mail boxes to more convenient areas in the Village.
- D. Mayor Flinn encouraged all residents to contact him with any questions and/or concerns they have with regard to the Comprehensive Development Master Plan or any budget issues.

## **XIV. OTHER BUSINESS**

- A. Councilman Feller moved to hold an attorney-client session on Friday, August 5, 2005 at 7:00 p.m. and to continue this meeting to that date. Seconded by Vice Mayor Robinson. All voted in favor. The Motion carried.

## **XV. NEXT MEETING AND ADJOURNMENT**

The meeting was adjourned at 9:11 p.m.

*Prepared and submitted by:*

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*Meighan J. Pier, CMC  
Village Clerk*

*Adopted by the Village Council on  
this \_\_\_ day of September, 2005*

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*Eugene P. Flinn, Jr., Mayor*

PURSUANT TO FLORIDA STATUTES 286.0105, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW. WHILE THE FLORIDA STATUTES DO NOT REQUIRE TAPE RECORDINGS, TO THE EXTENT THAT TAPE RECORDINGS ARE MADE, THE TAPES MAY BE REQUESTED FROM THE VILLAGE CLERK FOR REVIEW AND/OR COPYING. THE VILLAGE OF PALMETTO BAY CAN NOT GUARANTEE QUALITY OF ANY RECORDING.